

**Notice of Allowability**

Application No.

09/651,651

Examiner

Russell Kallis

Applicant(s)

LASSNER ET AL.

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to paper filed 3/20/2006 and interview of 8/01/2006.
2. ☒ The allowed claim(s) is/are 10,22,28,32,34,36,38,40-43,45-50,107,113,115,117,121-123 and 125.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                   |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>8/01/2006</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                                     |
|   | 9. <input type="checkbox"/> Other _____.  |

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Robert Hanson on 8/01/2006.

In the claims:

Claims 111 and 124 have been cancelled.

Claim 10 (Currently amended) An isolated nucleic acid sequence comprising a coding sequence, wherein the coding sequence comprises a polynucleotide selected from the group consisting of:

- (a) an isolated polynucleotide encoding [a] the polypeptide of SEQ ID NO: 5;
- (b) an isolated polynucleotide comprising the nucleic acid sequence of SEQ ID NO: 4;
- (c) [an isolated polynucleotide having at least 80% sequence identity with the nucleic acid sequence of SEQ ID NO: 4; d) an isolated polynucleotide having at least 90% sequence identity with the nucleic acid sequence of SEQ ID NO: 4; e)] an isolated polynucleotide having at least 95% sequence identity with the nucleic acid sequence of SEQ ID NO: 4;
- (d[f]) an isolated polynucleotide complementary to [a] the polynucleotide of (a), (b), or (c)[, (d), or (e)]; and
- (e[g]) an isolated polynucleotide that hybridizes under conditions of 5X SSC, 50% formamide and 42° C to the nucleic acid sequence of SEQ ID NO: 4, wherein the coding

Art Unit: 1638

sequence encodes a plant [lecithin: cholesterol] acyltransferase[-like] polypeptide, and wherein the coding sequence is operably linked to a heterologous regulatory sequence functional in plants.

Claim 107 (Currently amended) A plant comprising a recombinant construct containing a heterologous regulatory sequence operably linked to a polynucleotide selected from the group consisting of:

- (a) an isolated polynucleotide encoding [a] the polypeptide of SEQ ID NO: 5;
- (b) an isolated polynucleotide comprising the nucleic acid sequence of SEQ ID NO: 4;
- (c) [an isolated polynucleotide having at least 80% sequence identity with the nucleic acid sequence of SEQ ID NO: 4; d) an isolated polynucleotide having at least 90% sequence identity with the nucleic acid sequence of SEQ ID NO: 4; e)] an isolated polynucleotide having at least 95% sequence identity with the nucleic acid sequence of SEQ ID NO: 4;
- (d[f]) an isolated polynucleotide complementary to [a] the polynucleotide of (a), (b), or (c)[, (d), or (e)]; and
- (e[g]) an isolated polynucleotide that hybridizes under conditions of 5X SSC, 50% formamide and 42° C to SEQ ID NO: 4, wherein expression of said recombinant construct results in an increased~~altered~~ production of oil by said plant as compared to the same plant without said recombinant construct.

Art Unit: 1638

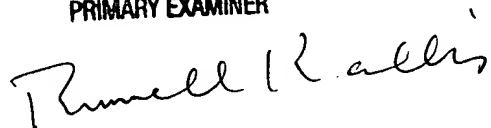
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell Kallis whose telephone number is (571) 272-0798. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on (571) 272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Russell Kallis Ph.D.  
August 1, 2006

RUSSELL P. KALLIS, PH.D.  
PRIMARY EXAMINER

A handwritten signature in cursive script that reads "Russell P. Kallis".